

LIBER 5 PAGE 211

BILL NO. 79-2

AS AMENDED

COUNTY COUNCIL

OF

HARFORD COUNTY, MARYLAND

BILL NO. 79-2 (AS AMENDED)

Introduced by Council Member Rahl

Legislative Day No. 79-4 Date: February 6, 1979

AN EMERGENCY ACT to repeal and re-enact, with amendments, Section 20.2, heading, Hearing Examiners, of Article 20, heading, Board of Appeals, and Section 21.6, of Article 21, heading, Cyclic Method for Processing Rezoning Applications, of the Harford County Zoning Ordinance, Ordinance No. 6; to provide for the employment of Hearing Examiners to hear those cases to be heard by the Board of Appeals; to provide for the Hearing Examiners to make a decision in zoning appeal and reclassification cases; to provide for final argument before the Board of Appeals or the County Council; to provide for the filing of a transcript; to provide for the payment for the transcript and additional publication fees; to also refer to the Hearing Examiner when such construction would be appropriate, when a Hearing Examiner is employed by the Board of Appeals.

By the Council, February 6, 1979

Introduced, read first time, ordered posted and public hearing scheduled

on: March 6, 1979

at: 7:15 P.M.

By Order: Angela Markowski, Secretary

#### PUBLIC HEARING

Having been posted and Notice of time and place of hearing and Title of Bill having been published according to the Charter, a public hearing was held on March 6 & 13, 1979 and concluded on March 20, 1979.

Angela Markowski, Secretary

BILL NO. 79-2  
AS AMENDED

1 Section 1. *Be It Enacted By The County Council of Harford*  
2 *County, Maryland*, that Section 20.2, heading, Hearing Examiners,  
3 of Article 20, heading, Board of Appeals and Section 21.6,  
4 heading, Step IV, of Article 21, heading, Cyclic Method for  
5 Processing Rezoning Applications, of the Harford County Zoning  
6 Ordinance, Ordinance No. 6, be, and are hereby repealed and re-  
7 enacted, with amendments, all to read as follows:

8 ARTICLE 20. BOARD OF APPEALS.

9 Section 20.2. Hearing Examiners.

10 (a) The Board of Appeals may employ Hearing Examiners  
11 to hear those cases normally heard by the Board. In the event  
12 the Board employs Hearing Examiners, the Hearing Examiner shall  
13 have the authority, duty, and responsibility to render a decision  
14 in all zoning appeal cases normally heard by the Board, subject  
15 to a request for final argument before the Board and appeal to  
16 the Courts of the State of Maryland.

17 (1) ANY BRIEFS FORTHCOMING SHALL BE SUBMITTED  
18 WITHIN FOURTEEN (14) CALENDAR DAYS OF THE COMPLETION OF THE  
19 HEARING BEFORE THE HEARING EXAMINER.

20 (1) (2) The Hearing Examiner shall file his or  
21 her decision no later than thirty (30) calendar days after the  
22 closing of the record of the case before the Hearing Examiner.

23 (2) (3) The Hearing Examiner's decision shall  
24 become the final decision of the Board ~~fifteen (15)~~ TWENTY (20)  
25 calendar days after the date of the decision, unless a request  
26 for final argument before the Board shall be filed with the Board  
27 before the expiration of the ~~fifteen (15)~~ TWENTY (20) calendar-  
28 day period by the applicant, or the People's Counsel, or a person  
29 aggrieved who was a party to the proceedings before the Hearing  
30 Examiner.

31 (3) The Board, on its own motion, by majority  
32 vote;

1 (4) ANY BOARD MEMBER UPON WRITTEN NOTICE TO THE  
2 SECRETARY OF THE COUNCIL may require final argument before the  
3 Board.

4 {4} (5) In cases where a final argument before  
5 the Board is requested or required, the Hearing Examiner's  
6 decision shall be considered as a recommended opinion to the  
7 Board. The Board may accept, reject, or modify the Hearing  
8 Examiner's recommended opinion: , OR REMAND THE CASE BACK TO THE  
9 HEARING EXAMINER FOR FURTHER PROCEEDINGS.

10 (b) After a request for final argument is filed with  
11 the Board of Appeals, the Board shall notify the applicant of the  
12 zoning case that such request has been filed.

13 (1) The applicant of the zoning case shall order,  
14 pay for and deposit with the Board, the transcript of proceedings  
15 before the Hearing Examiner and shall deposit with the Board such  
16 additional costs of advertisement as may be required by the  
17 Secretary of the Council prior to a hearing of final argument  
18 before the Board being scheduled and advertised.

19 (2) If the transcript is not filed or the addi-  
20 tional advertising fees are not paid within ninety (90) calendar  
21 days of the date final argument before the Board is requested, OR  
22 REQUIRED, the application will be dismissed with WITHOUT prejudice  
23 to the applicant. requesting the relief: However, the ninety  
24 (90) calendar day period for the filing of the transcript may be  
25 extended by the Secretary of the Council upon a showing of good  
26 cause, subject to an appeal to the Board.

27 (3) Final argument before the Board shall be  
28 conducted in accordance with the "Rules of Procedure for the  
29 Processing and Hearing of Zoning Cases".

30 (4) The final decision of ARGUMENT BEFORE the  
31 Board shall be rendered SCHEDULED AND HEARD within ninety (90)  
32

1 calendar days of the date when all of the following requirements  
2 for final argument have been satisfied:

3 (a) A request for final argument is filed.

4 (b) The complete transcript is filed with  
5 the Board.

6 (c) The additional advertising fees are  
7 paid.

8 The ninety (90) calendar-day period will begin on the date when  
9 the last requirement has been met. In the event the Board does  
10 not hear the request for final argument or render a decision  
11 within the ninety (90) calendar-day period or if the case is  
12 remanded to the Hearing Examiner for additional testimony and a  
13 decision is not rendered by the Board within ninety (90) calendar  
14 days from the date of the Hearing Examiner's supplemental or  
15 amended opinion CONCLUSION OF THE HEARING BEFORE THE COUNCIL,  
16 then the application shall automatically be considered to have  
17 been denied by the Board. THE HEARING EXAMINER SHALL FILE HIS OR  
18 HER SUPPLEMENTAL OR AMENDED OPINION WITHIN FIFTEEN (15) CALENDAR  
19 DAYS FROM THE CONCLUSION OF THE HEARING ON THE REMAND.

20 (c) An opinion rendered by the Hearing Examiner shall  
21 first be subject to final argument before the Board, pursuant to  
22 Section 20.2(b)(3), before an action is filed in the Courts of  
23 the State of Maryland.

24 (d) Any reference in law to the Board of Appeals of  
25 Harford County having jurisdiction over zoning cases shall also  
26 refer to the Hearing Examiner when such construction would be  
27 appropriate, from and after the date that a Hearing Examiner is  
28 employed by the Board of Appeals.

29 (e) In the event that a case is remanded either to the  
30 Hearing Examiner or Board of Appeals by the County Council or  
31 Courts, the Secretary of the Council shall give written notice to  
32

1 the applicant, adjoining property owners as listed on the appli-  
2 cation for the relief and those persons having requested notice  
3 of the decision of the Hearing Examiner or Board. A fee OF FIFTY  
4 DOLLARS (\$50.00) to cover the additional cost of advertising, as  
5 may be required, shall be deposited with the Secretary of the  
6 Council by the applicant prior to a new hearing being scheduled  
7 and advertised. If the applicant fails to deposit such fee with  
8 the Secretary of the Council within ~~thirty (30)~~ TEN (10) calendar  
9 days of the date of notice of the remand by the Secretary of the  
10 Council, then the application shall be dismissed with WITHOUT  
11 prejudice to the applicant. ~~requesting the relief.~~

12 ARTICLE 21. CYCLIC METHOD FOR PROCESSING REZONING APPLICATIONS.  
13 Section 21.6. Step IV.

14 (1) The Hearing Examiner shall continue holding  
15 public hearings in accordance with the Rules of Procedure for the  
16 Processing and Hearing of Zoning Cases, subject to such postpone-  
17 ments or continuations as the circumstances may require. The  
18 Hearing Examiner shall file his or her decision no later than  
19 thirty (30) calendar days after the closing of the record of the  
20 case before the Hearing Examiner.

21 (2) ANY BRIEFS FORTHCOMING SHALL BE SUBMITTED WITHIN  
22 FOURTEEN (14) CALENDAR DAYS OF THE COMPLETION OF THE HEARING  
23 BEFORE THE HEARING EXAMINER.

24 (2) (3) The Hearing Examiner shall have the authority,  
25 duty, and responsibility to render a decision in all zoning  
26 reclassification cases subject to a request for final argument  
27 before the County Council and appeal to the Courts of the State  
28 of Maryland.

29 (3) (4) The Hearing Examiner's decision shall become  
30 the Council's final decision ~~fifteen (15)~~ TWENTY (20) calendar  
31 days after the date of the decision, unless a request for final  
32

1 argument before the County Council shall be filed with the County  
2 Council before the expiration of the fifteen (15) TWENTY (20)  
3 calendar-day period by the applicant, or the People's Counsel or  
4 a person aggrieved who was a party to the proceedings before the  
5 Hearing Examiner.

6 (4) The Council; on its own motion; by majority vote;

7 (5) ANY COUNCIL MEMBER UPON WRITTEN NOTICE TO THE  
8 SECRETARY OF THE COUNCIL may require final argument before the  
9 Council.

10 (5) (6) In cases where a final argument before the  
11 County Council is requested or required, the Hearing Examiner's  
12 decision shall be considered as a recommended opinion to the  
13 County Council. The County Council may accept, reject, or modify  
14 the Hearing Examiner's recommended opinion: , OR REMAND THE CASE  
15 BACK TO THE HEARING EXAMINER FOR FURTHER PROCEEDINGS.

16 (6) (7) After a request for final argument is filed  
17 with the County Council, the Council shall notify the applicant  
18 of the zoning case that such request has been filed.

19 (7) (8) The applicant of the zoning case shall order,  
20 pay for and deposit with the Council, the transcript of proceed-  
21 ings before the Hearing Examiner and shall deposit with the  
22 Council such additional costs of advertisement as may be required  
23 by the Secretary of the Council prior to a hearing of final  
24 argument before the Council being scheduled and advertised.

25 (8) (9) If the transcript is not filed or the addi-  
26 tional advertising fees are not paid within ninety (90) calendar  
27 days of the date final argument before the Council is requested;  
28 OR REQUIRED, the application will be dismissed with WITHOUT  
29 prejudice to the applicant, requesting the rezoning. However,  
30 the ninety (90) calendar-day period for the filing of the transcript  
31 may be extended by the Secretary of the Council upon a showing of  
32 good cause, subject to an appeal to the Council.

1 (9) (10) Final arguments before the County Council  
2 shall be conducted in accordance with the "Rules of Procedure for  
3 the Processing and Hearing of Zoning Cases".

4 (10) The final decision of the Council shall be

5 (11) THE FINAL ARGUMENT BEFORE THE COUNCIL SHALL BE  
6 rendered SCHEDULED AND HEARD within ninety (90) calendar days of  
7 the date when all of the following requirements for final argument  
8 have been satisfied:

9 (a) A request for final argument is filed.

10 (b) The complete transcript is filed with the  
11 Board.

12 (c) The additional advertising fees are paid.

13 The ninety (90) calendar-day period will begin on the date when  
14 the last requirement has been met. In the event the Council does  
15 not hear the request for final argument or render a decision  
16 within the ninety (90) calendar day period or if the case is  
17 remanded to the Hearing Examiner for additional testimony and a  
18 decision is not rendered by the County Council within ninety (90)  
19 calendar days from the date of the Hearing Examiner's supplemental  
20 CONCLUSION OF THE HEARING BEFORE THE COUNCIL or amended opinion,  
21 then the application shall automatically be considered to have  
22 been denied by the Council. THE HEARING EXAMINER SHALL FILE HIS  
23 OR HER SUPPLEMENTAL OR AMENDED OPINION WITHIN FIFTEEN (15)  
24 CALENDAR DAYS FROM THE CONCLUSION OF THE HEARING ON THE REMAND.

25 (11) (12) An opinion rendered by the Hearing Examiner  
26 shall first be subject to final argument before the County  
27 Council, pursuant to Section 21.6(9), before an action is filed  
28 in the Courts of the State of Maryland.

29 (12) (13) Any reference in law to the County Council  
30 of Harford County having jurisdiction over zoning cases shall  
31 also refer to the Hearing Examiner when such construction would  
32

1 be appropriate, from and after the date that a Hearing Examiner  
2 is employed by the Harford County Council.

3           (13) (14) In the event that a case is remanded either  
4 to the Hearing Examiner or County Council by the County Council  
5 or Courts, the Secretary of the Council shall give written notice  
6 to the applicant, adjoining property owners as listed on the  
7 application for the rezoning, and those persons having requested  
8 notice of the decision of the Hearing Examiner or Council. A fee  
9 OF FIFTY DOLLARS (\$50.00) to cover the additional cost of adver-  
10 tising, as may be required, shall be deposited with the Secretary  
11 of the Council by the applicant prior to a new hearing being  
12 scheduled and advertised. If the applicant fails to deposit such  
13 fee with the Secretary of the Council within thirty (30) TEN (10)  
14 calendar days of the date of notice of the remand by the Secretary  
15 of the Council, then the application shall be dismissed with  
16 WITHOUT prejudice to the applicant. requesting the rezoning.

17 Section 2. *And Be It Further Enacted*, that if any section,  
18 clause, phrase, word, provision or particular application of this  
19 Act is for any reason held invalid or unconstitutional by any  
20 court of competent jurisdiction, such section, clause, word,  
21 provision or particular application shall be deemed a separate,  
22 distinct and independent provision or application and such  
23 holding shall not affect the validity of the remaining provision  
24 or subsequent application thereof.

25 Section 3. *And Be It Further Enacted*, that this Act is hereby  
26 declared to be an Emergency Act, necessary for the efficient  
27 processing of zoning cases in Harford County, and shall take  
28 effect on the date it becomes law.

29  
30 EFFECTIVE: April 17, 1979  
31  
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LIBER 5 PAGE 219  
BY THE COUNCIL

Read the third time.

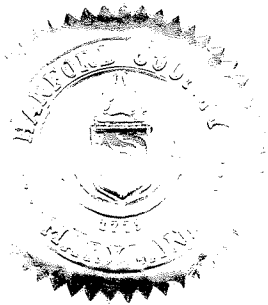
Passed LSD 79-11 (April 10, 1979) (with amendments)

~~XXXXXX~~

By order

Angela Markowski, Secretary

Sealed with the County Seal and presented to the County Executive  
for his approval this 11th day of April, 1979  
at two o'clock P.M.



Angela Markowski, Secretary

BY THE EXECUTIVE

APPROVED:

[Signature]  
County Executive  
Date 4/17/79

BY THE COUNCIL

This Bill, having been approved by the Executive and  
returned to the Council, becomes law on April 17, 1979.

Angela Markowski, Secretary

EFFECTIVE DATE: April 17, 1979

Rec'd & Recorded 8/1 1979 3:54 P.M.  
HDC Liber 5 Folio 311 & examined per  
H. Douglas Chilcoat, Clerk, Harford Co.